

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Chapter 11

Cornell West 34 Holder LLC,

Case No. 22-41888-ESS

Debtor.
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DEBTOR’S MOTION TO DISMISS CHAPTER 11 CASE

Cornell West 34 Holder LLC (the “Debtor”), as and for its motion to dismiss this Chapter 11 case, represents and shows this Court as follows:

1. The Debtor hereby seeks the voluntary dismissal of its Chapter 11 case pursuant to 11 U.S.C. §1112 in light of the recent decision of the U.S. District Court remanding a removed foreclosure action to the state court for further proceedings.

2. The Debtor filed a voluntary petition under Chapter 11 of the Bankruptcy Code on August 3, 2022. As the Court is aware, the Debtor is a holding company which asserts a 15.03% ownership in real property through a series of holdings by affiliates. The underlying property, located at 257-263 W. 34th Street in Midtown Manhattan (the “Property”) is the subject of a foreclosure proceeding which was commenced in the New York Supreme Court, New York County by 263 W 34th Street Lender, LLC (the “Lender”), the holder of a mortgage lien against the Property, and subsequently removed to the U.S. District Court (S.D.N.Y 1:22 cv 01991) (the “District Court Action”).

3. The Debtor moved to intervene in the District Court Action, which was also the subject of a motion to remand back to the Supreme Court. The Debtor filed for Chapter 11 protection while the motions were pending, with a view toward removing the action to

Bankruptcy Court to bring the Property under the purview of this Court and provide a basis to promulgate a plan for the restructuring of the debt.

4. By Opinion and Order dated February 7, 2023, a copy of which has previously been filed with this Court [ECF No. 30], the District Court granted the motion to remand to the Supreme Court without deciding the Debtor's motion to intervene.

5. In light of this decision, the Debtor submits that the most practical course of action is to dismiss the Chapter 11 case without prejudice while the foreclosure action plays out.

6. The Debtor is current with its required monthly operating reports, and will pay all quarterly fees due through the second quarter of 2023 prior to the dismissal of this case.

WHEREFORE, the Debtor prays for the entry of an Order dismissing this Chapter 11 petition, together with such other and further relief as this Court may deem just and proper.

Dated: New York, New York
March 20, 2023

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By: /s/ J. Ted Donovan